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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,002	03/26/2004	Brian E. Healy	J-3949	7734
28165 7590 09/13/2007 S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236				
			EXAMINER JACYNA, J CASIMER	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,002

Applicant(s)

HEALY ET AL.

Examiner

J. Casimer Jacyna

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3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5,6,17,19-35,40 and 43-50 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,6,17,27,30-35 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-23,28,29,43-46 and 48-50 is/are rejected.
- 7) ☒ Claim(s) 24-26 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. Claims 3, 5, 6, 17, 27, 30-35 and 40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/7/2007.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19-21, 28, 29, 43, 44, 48 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostrowsky (3,760,988). Ostrowsky discloses an actuator cap 24 with a main wall 36 that varies in cross section at 38, an actuator member 26 that extends transversely and terminates at an outer peripheral surface 68 that extend beyond a portion of the main wall at 36, 40 but do not extend beyond the greatest lateral extent of the main wall at 30, and a curved upright member 61 or 72, 74, 75 both of which are immediately adjacent the actuator at 52 or 55 wherein the curved portions of 61 and 72 are received within the internal surfaces of housing guides 44 or 48, 49 that surround and guide portions of the actuator and prevent inadvertent actuation from stray lateral motions.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22, 23, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrowsky (3,760,988). Ostrowsky discloses a combination substantially as claimed but does not disclose the specific claimed dimensions. However, one of ordinary skill in the art would have considered the actual dimensions of the container and actuator to be design considerations that are obvious to and well within the scope of knowledge of one of ordinary skill in the art.

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrowsky (3,760,988) in view of Henry (2003/0006252). Ostrowsky discloses an actuator cap substantially as claimed but does not disclose ribs to hold the valve stem. However, Henry teaches another actuator cap having ribs 78, 80 for the purpose of better securing the valve stem. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cap of Ostrowsky with ribs as, for example, taught by Henry in order to better secure the valve stem.

7. Claims 24-26 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed 7/16/2007 have been fully considered but they are not persuasive. Applicant contends that Ostrowsky does not disclose a main wall of varying cross-section, a peripheral as claimed nor a curved upright portion. However, as noted in the rejection, the actuator 26 of Ostrowsky has a portion 68 that extends outside the housing wall 36 but not beyond 30 as claimed. The outer housing wall 36 is

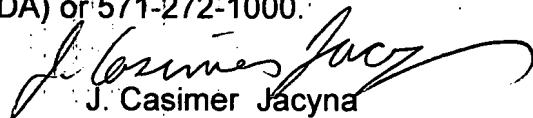
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curved or varies its cross-section at least at 38, and includes upright portions 61 and 72 that are guided by openings in the housing to allow only a direct vertical force to actuate the valve and thereby preventing inadvertent lateral forces from opening the valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



J. Casimer Jacyna
Primary Examiner
Art Unit 3754

JCJ